



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

JUN 18 2004

Cassandra F. Lentchner, Esq.
Perkins Coie
607 Fourteenth Street, N.W.
Washington, D.C. 20005-2011

Re: MUR 5429
Friends of Weiner and
Ira Spodek, as Treasurer

Dear Ms. Lentchner:

On June 8, 2004, the Federal Election Commission accepted the signed conciliation agreement submitted on your clients' behalf in settlement of violations of 2 U.S.C. §§ 434(a)(6)(A), 434(b) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter as it pertains to your clients, Friends of Weiner and Ira Spodek, as Treasurer.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(12)(A) still apply, and that this matter is still open with respect to other respondents. The Commission will notify you when the entire file has been closed.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. As you know, pursuant to our telephone conversation on June 10, 2004, the civil penalty, refunds, and reporting amendments are due within 30 days of the effective date of the conciliation agreement. If you have any questions, please contact me at (202) 694-1573.

Sincerely,

A handwritten signature in black ink, appearing to be "Beth N. Mizuno".

Beth N. Mizuno
Attorney

Enclosure

2004 APR 28 P 3:01

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Friends of Weiner and Ira Spodek, as Treasurer)

MUR 5429)

CONCILIATION AGREEMENT

This Matter was initiated by the Federal Election Commission ("Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

The Commission found reason to believe that Friends of Weiner ("the Committee") and Ira Spodek, as treasurer (collectively "Respondents"), violated 2 U.S.C. §§ 434(a)(6), 434(b), and 441a(f).¹

NOW THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. The Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

¹ All of the facts recounted in this agreement occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Federal Election Campaign Act of 1971, as amended ("the Act"), herein are to the Act as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA. All statements of the law in this agreement that are written in the present tense shall be construed to be in either the present or the past tense, as necessary, depending on whether the statement would be modified by the impact of BCRA or the regulations thereunder.

III. The Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts and violations of law in this matter are as follows:

1. Friends of Weiner was the principal campaign committee of Rep. Anthony D. Weiner for his campaigns for the United States House of Representatives (New York 9th District) in 1998 and 2000.

2. Ira Spodek is the Treasurer of Friends of Weiner.

3. Frances Weiner is Anthony Weiner's mother.

4. Morton Weiner is Anthony Weiner's father.

5. The Federal Election Campaign Act of 1971, as amended, ("Act") provides that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.

2 U.S.C. § 441a(a)(1)(A).

6. Under regulations applicable for the 2000 elections,² a contributor could designate his contribution for a particular election by writing that election on the face of the check. 11 C.F.R. § 110.1(b)(4)(i). Alternatively, a contributor could designate his contribution by providing a signed written statement, which identified the election for which the contribution was intended. 11 C.F.R. § 110.1(b)(4)(ii).

7. Under regulations applicable for the 2000 elections, if a political committee did not retain the written records concerning designation required under 11 C.F.R. § 110.1(l)(2), the contribution was not considered to be designated in writing for a particular election, and the

² On October 31, 2002, the Commission adopted new regulations for designating contributions to particular elections and attributing contributions to particular donors. Under the new regulations, a candidate's authorized committee is not required to obtain a written contribution redesignation or reattribution signed by the contributor. An authorized committee may redesignate or reattribute the contribution and send a notification of the redesignation or reattribution to the contributor pursuant to 11 C.F.R. §§ 110.1(b)(5) and (k)(3).

201-01-403-3663

provisions of 11 C.F.R. § 110.1(b)(2)(ii) applied. 11 C.F.R. § 110.1(l)(5). If a contribution was not designated in writing by the contributor for a particular election, it was considered designated for the next election for that Federal office after the contribution was made. 11 C.F.R. § 110.1(b)(2)(ii). Under the applicable regulations, if a political committee did not retain the written records concerning redesignation or reattribution required under 11 C.F.R. § 110.1(l)(1), (2), (3) or (6), the redesignation or reattribution was not effective, and the original designation or attribution controlled. 11 C.F.R. § 110.1(l)(5).

8. The Act provides that no candidate or political committee shall knowingly accept any contribution in violation of the contribution limitations in the Act. 2 U.S.C. § 441a(f).

9. The Act provides that, if any contribution of \$1,000 or more is received by an authorized committee of a candidate after the 20th day, but more than 48 hours, before 12:01 a.m. of the day of an election, the principal campaign committee of that candidate shall notify the Commission, the Secretary of the Senate and the Secretary of State, as appropriate, within 48 hours after receipt of the contribution. 2 U.S.C. § 434(a)(6).

10. A loan made by any person for the purpose of influencing any election for Federal office is a contribution. 2 U.S.C. § 431(8). The aggregate amount loaned to a candidate or a committee by a contributor, when added to other contributions from that individual to that candidate or committee, shall not exceed the contribution limitations set forth in the Act.

11 C.F.R. § 100.7(a)(1)(i)(B). A loan, to the extent it is repaid, is no longer a contribution. *Id.* A loan that exceeds the contribution limitations set forth in the Act is unlawful whether or not it is repaid. 11 C.F.R. § 100.7(a)(1)(i)(A).

11. Political committees must report to the Commission contributions from persons that aggregate more than \$200 per election cycle. 2 U.S.C. § 434(b)(3)(g).

12. Political committees must report to the Commission the amount and nature of outstanding debts and obligations owed by or to such political committee. 2 U.S.C. § 434(b)(8). Debts and obligations owed by or to a political committee shall be continuously reported until extinguished. 11 C.F.R. § 104.11(a).

1998 Election

13. In 1997 and early 1998, Frances and Morton Weiner each made the maximum permissible contribution to Anthony Weiner's primary campaign. In the six weeks before the September 15, 1998 primary election, Frances and Morton Weiner each loaned Anthony Weiner \$15,000.

14. Anthony Weiner made a \$28,000 loan to Friends of Weiner. The loan was made in two payments: a \$20,000 payment on September 4, 1998 and an \$8,000 payment on September 10, 1998. The Commission found reason to believe that the \$28,000 loan was funded by money Anthony Weiner received from his parents.

15. The Respondents repaid \$10,000 to Anthony Weiner in December 1998 and the remaining \$18,000 in 1999. Anthony Weiner then repaid his parents for the loans they had made to him.

16. In reports filed with the Commission, between October 14, 1998 and January 29, 2000, the Respondents reported the loans from Frances Weiner and Morton Weiner as a loan from Anthony Weiner.

17. The Respondents' acceptance of the loans from Frances and Morton Weiner is not subject to a civil penalty pursuant to 28 U.S.C. § 2462 (the five-year statute of limitations for enforcement actions).

2000 Election

18. The Commission found that the Respondents accepted contributions from 183 individual contributors for the 2000 primary election and the 2000 general election for which the Respondents could not produce documentation of written reattributions or redesignations, and the Commission, therefore, found exceeded the applicable contribution limitation at 2 U.S.C. § 441a(a)(1)(A) by a total of \$212,801. The Respondents did not reattribute or redesignate the contributions as permitted by 11 C.F.R. § 110.1(b)(5)(ii)(B) or 11 C.F.R. § 110.1(k)(3)(ii)(B).

19. The Respondents contend that nearly all of the 183 contributions were in amounts between \$1,000 and \$2,000 and, therefore, were within the \$2,000 that individuals could contribute to a candidate for a primary and general election (the primary and general elections were separate elections, with separate \$1,000 limits); and the Commission would not have found them to be excessive had the Respondents obtained and retained the reattribution and redesignation documentation required under the Commission regulations applicable for the 2000 elections.

20. The Respondents failed to file 48 hour notifications for 29 contributions (totaling \$45,500) that were received between the 20th and 2nd day prior to the 2000 primary election. The Respondents failed to file notifications for three contributions (totaling \$4,500) that were received between the 20th and 2nd day prior to the 2000 general election.

V. The Respondents violated 2 U.S.C. § 441a(f) by accepting contributions in excess of the contribution limitations set forth in the Act for the 2000 primary election and the 2000 general election. The Respondents will cease and desist from violating 2 U.S.C. § 441a(f).

VI. The Respondents violated 2 U.S.C. § 434(b) by misreporting the \$28,000 loan as a loan from Anthony Weiner and by inaccurately reporting the loan as a debt owed by Friends of

Weiner to Anthony Weiner. The Respondents contend that they did not knowingly and willfully violate the reporting obligations in 2 U.S.C. § 434(b), but, in order to resolve all issues raised in this matter and to avoid litigation, will not contest the Commission's determination that Respondents violated 2 U.S.C. § 434(b). The Respondents will cease and desist from violating 2 U.S.C. § 434(b). The Respondents will amend the reports they filed with the Commission, starting with the October 1998 Quarterly Report and ending with the 1999 Year End Report, to reflect accurately their receipt of loans from Frances Weiner and Morton Weiner, the existence of the Committee's indebtedness to Frances Weiner and Morton Weiner, and the committee's payment of the loans.

VII. The Respondents violated 2 U.S.C. § 434(a)(6)(A) by failing to file notifications for contributions that were received between the 20th and 2nd day prior to the 2000 primary election and the 2000 general election. The Respondents will cease and desist from violating 2 U.S.C. § 434(a)(6)(A).

VIII. The Respondents will pay a civil penalty to the Commission in the amount of \$47,000 pursuant to 2 U.S.C. § 437g(a)(5)(A).

IX. The Respondents will re-issue refunds totaling \$5,000 to the persons and in the amounts listed on the attached Appendix A to this Conciliation Agreement. The Respondents previously wrote refund checks to these persons, but the checks were not cashed.

X. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may initiate a civil action for relief in the U.S. District Court for the District of Columbia.

XI. This agreement shall become effective as of the date that all parties thereto have executed same and the Commission has approved the entire agreement.

XII. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

XIII. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence H. Norton
General Counsel

BY: Rhonda J. Vosdingh
Rhonda J. Vosdingh
Associate General Counsel

6/16/04
Date

FOR THE RESPONDENTS:

Cassandra Lenzinger
Name CASSANDRA LENZINGER
Position COUNSEL

4/26/04
Date

24-04-400-5593

Attachment A

Bill Lerner	\$1,000
John Lerner	\$2,000
Chana Yarmish	\$1,000
Emanuel Yarmish	\$1,000

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